IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODGING) NO. 2356 of 2004

M/s. Sagar Fisheries Enterprises ...Petitioner

Versus

Govt. of Maharashtra and Ors. ... Respondents

Ms. Naina Dutia instructed by Nameet & Co. for the petitioner.

Mr. R.M. Sawant, Government Pleader, for resondent No.1.

Mr. D.H. Mehta instructed by M/s. M.P.Savla & Co. for respondent Nos. 2 and 3.

CORAM: **DALVEER BHANDARI, C.J.** & **DR. D.Y. CHANDRACHUD, J.**

DATE: **OCTOBER 11, 2004**.

P.C.

The petitioner has prayed that the letter dated 24th August, 2004, addressed by respondent No.1 to the petitioner (at Exhibit-E to the petition) be quashed and respondent No.1 be directed to issue fresh order to the petitioner for supply of the total number of boxes for which tender notice was given by respondent No.1. It may be noted that the tender was opened with the consent of all the parties. This is evident from Exhibit-1 to the affidavit filed by Subhash Nathaji Meshram,

Deputy Director of Fisheries. The learned Government Pleader, on instructions, submits that the entire works under the contract have been executed. It is stated by the learned counsel for the State that all supplies have been received by the State. It may be relevant to mention that the petitioner specifically tried to change the condition of tender and stated that it would not be able to supply total quantity required in 15 days and asked for 62 days time for supplying the tender quantity. This was not in consonance with the tender condition that the entire supply had to be made within 15 days.

2. Since the petitioner was the lowest tenderer at Rs.1,225/- per box, the State Government, vide its letter dated 24th August, 2004, directed the Commissioner of Fisheries to negotiate with all the tenderers as to whether they are in a position to match the price of the petitioner at Rs.1,225/- per box. All the tenderers were asked to remain present before the Committee on 24th August, 2004 for negotiations in the matter as directed by the State Government. Only M/s. K. Sons, Mumbai, and M/s. Bombay Synthetics, Mumbai, were ready to match the price of the petitioner and supply the boxes within the stipulated time. Accordingly, the order was split in the three parties, the petitioner was awarded 2,450 boxes, M/s. K. Sons were awarded 4,900 boxes

and M/s. Bombay Synthetics were awarded 4,894 boxes.

3. It is mentioned in the affidavit that M/s. K. Sons and M/s. Bombay Synthetics have entered into an agreement with the Commissioner of Fisheries for supply of the said boxes awarded to them and they have also submitted the security deposit for supply of the quantity awarded to them under the said tender, whereas the petitioner has failed to enter into such agreement.

4. The Committee, after satisfying itself that the sealing did not mean that they had to be sealed by red lacker and even pasting would amount to sealing of the envelope, took a decision to open the said tenders. It is stated that the petitioner was not given the entire order because he did not agree to supply the goods within 15 days.

5. We have heard the learned counsel for the parties. In our considered opinion, this is not a fit case for interference under Article 226 of the Constitution of India. This petition being devoid of any merit is accordingly dismissed.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.